

Meeting Minutes February 19, 2004

Town of Los Altos Hills City Council Regular Meeting

Thursday, February 19, 2004 6:00 P.M.
Council Chambers, 26379 Fremont Road

1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Cheng called the Regular Meeting of the City Council to order at 6:00 p.m. in the Council Chambers at Town Hall.

Present: Mayor Emily Cheng, Mayor Pro Tem Mike O'Malley,
Councilmember Bob Fenwick, Councilmember Dean Warshawsky and
Councilmember Breene Kerr

Absent: None

Staff: City Manager Maureen Cassingham, City Attorney Steve Mattas,
Planning Director Carl Cahill, Acting City Engineer/Director of Public
Works
Dave Ross, Administrative Services Director Sarah Joiner, Associate
Planner Debbie Pedro, Parks and Recreation Supervisor Jimmy Forbis and
City Clerk Karen Jost

Press: Kathleen Acuff, Los Altos Town Crier

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed unanimously to limit the length of time for public comments to three minutes.

2. APPOINTMENTS AND PRESENTATIONS

2.1 Comcast Cable Upgrade Status Report – Kathi Noe, Director Government Relations and Franchising

Kathie Noe, Comcast Cable, addressed Council. She reported that Comcast is starting the video upgrade process for existing Comcast cable subscribers and expects to have all of the new nodes activated by the end of April. Once that is completed, the high speed internet will be available to subscribers. Noe distributed to Council the brochure that is being sent to residents explaining Comcast's high-speed internet and advanced digital network options subscription package. Comcast has identified approximately 400 Los Altos Hills residences that are underserved by the cable company. Extensive construction will be required to serve these homes, however, Comcast is anxious to serve all Los Altos Hills residents.

Council thanked Noe for her report.

3. PLANNING COMMISSION REPORT

Planning Director Carl Cahill reported that at their last meeting the Planning Commission had reviewed the request for a Site Development Permit, Conditional Use permit and variance for the new Town Hall. Several neighbors of the project were in attendance and expressed their specific concerns. The Planning Commission addressed these issues with additional conditions of approval. The project has been forwarded to the City Council with the recommendation for approval and will be heard as a Public Hearing at the March 3, 2004 City Council meeting.

4. CONSENT CALENDAR

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Kerr and passed unanimously, to approve the remainder of the consent calendar, specifically;

- 4.1 Approval of Minutes: Special City Council Meeting January 29, 2004
Regular City Council Meeting February 5, 2004
Special City Council Meeting February 5, 2004
- 4.2 Review of Disbursements: 01/29/2004 – 02/11/2004 \$61,389.06
- 4.3 State Budget Update
- 4.4 Acceptance of Grant of Pathway Easement; Lands of Bariteau,
13769 Wild Flower Lane – Resolution 8-04
- 4.5 Adoption of an Ordinance Amending Municipal Code to Provide for
Preferential Parking Districts in the Town of Los Altos Hills – Ordinance 432

5. UNFINISHED BUSINESS

5.1 Update on Mayor's Goals

5.1.1 New Town Hall – Status Report

Councilmember Kerr reported that at their last meeting, the New Town Hall Committee had reviewed three alternatives for temporary facilities for Town Hall operations: 1) temporary trailers on site; 2) rental of commercial space; and 3) rental of the Bullis School site. The Committee had agreed that the Bullis School venue was the preferred alternative. Councilmember Kerr, on behalf of the Committee, sent a letter to the School Board requesting that the potential lease be agendaized for consideration at their next meeting. He reported that it will be discussed at the Board's March 1, 2004 meeting. Kerr added that School District representatives will be visiting Town Hall next week to review the Town's needs and meet with City Manager Cassingham. Kerr noted that his letter had advised the District that the Town would be amenable to sharing the space with the Bullis Charter School.

5.1.2 Undergrounding of Utilities – Status Report

Councilmember Warshawsky reported that the telephone survey had been designed by Godbe Research and would be undertaken the second week in March. Godbe Research is committed to completing 250 calls. This will provide a sampling of the entire community and will be a good indicator of the necessary 2/3 support for a special election. Warshawsky reported that he expects a preliminary report in March and the final report by the end of April.

5.1.3 Master Pathway Map – Status Report

To be discussed as Agenda Item 5.2.

5.1.4 Storm Water Master Plan – Status Report

Acting City Engineer David Ross reported that staff had met with Nolte and Associates. The initial review of the report does not indicate the need for any major CIP projects. Staff will present the final report to Council in early April.

5.1.5 Visit to China to Explore Business Opportunities – Status Report

Mayor Cheng reported that the San Jose Mercury will be featuring a story on the proposed trip to China. At this time, eleven residents have expressed interest in participating in the trip.

5.2 Discussion of Public Hearing Process for the Pathways Committee's Recommendations for the Master Pathway Map

Chris Vargas, Pathways Committee Chair, was before Council for direction on the public hearing process for the pathways map update. The Pathways Committee is proposing that the Pathways Committee hold a series of public hearings to gather resident input during the months of April-May. Based on the public testimony, the Pathways Committee will create a final draft of the updated pathway map and forward it to the Planning Commission for formal review as a proposed amendment of the General Plan Master Path Map. Following their review, it will be presented to the City Council for review and adoption.

Vargas explained for the initial hearings by the Pathways Committee, the Town will be divided into quadrants. They will only review off-road pathways.

Council discussion ensued. They concurred with the Pathways Committee's recommendation for the public hearing process and directed the Committee to do a Town-wide notification of the schedule of hearings via a postcard mailing. Vargas will work with staff on the timing and mailing of the notice.

5.3 Parks and Recreation Committee's Recommendation(s) for Bullis School Playing Fields

Jimmy Forbis, Parks and Recreation Supervisor, addressed Council. He presented a brief summary of his staff report noting that at the September 15, 2003 Parks and Recreation Committee meeting, the Committee was advised of a possible lease with the Los Altos School District for the fields at Bullis school. The City Council, at their October 2, 2003 meeting authorized the Parks and Recreation Committee and Department to spend a not-to-exceed amount of \$5,000 for a site rendering and conceptual drawing. Beals Sport was contracted to perform a cost analysis and conceptual rendition. Due to the prodigious expense estimated to develop the fields with synthetic surfaces, the Committee resolved to explore other options. Natural grass surfaces for the fields was investigated and it was determined that it would require less capital expenditure than the synthetic option with the cost for the lower and upper fields to be approximately \$80,000 and \$120,000 respectively and approximately \$200,000 for both. The third alternative discussed by the committee would be field rehabilitation, which would include aeration, seeding, top dressing and fertilization. The estimated cost for this option was \$4,000 per field with annual maintenance costs of \$6,000 per field and irrigation costs approximately \$3,000 per field.

After careful analysis, the Committee is recommending that the Council consider the field rehabilitation at the Bullis-Purrisma School fields with minimal investment at this time.

Mayor Cheng explained that the Parks and Recreation Committee does not want to take any allocated money away from the Pathways. For this project, they would like to use the Park Bond funds that are earmarked for the Little League bathroom upgrade and sewer connection.

Forbis added that if the Little League project is delayed, those funds could be used for the fields. In order to qualify for the Park Bond allocations, the project must meet certain criteria. A lease with the School district for the site is an integral component and must be a Town CIP.

Council discussion ensued. Council suggested that it might be appropriate to wait for the completion of the Parks and Recreation Department Strategic Plan to determine where the Bullis playing fields fit in the overall plan and then negotiate with the School District for a lease.

City Manager Cassingham explained that the lease is necessary to submit a project application to the State for Park Bond money. The Town needs to show tenure and adequate control of the site.

Mayor Cheng offered to negotiate with the School District on behalf of the Council/Town with the assistance of Staff for lease of the fields. This will enable the Committee to know what the minimal expenditure will be to satisfy the School District to obtain the lease.

MOTION SECONDED AND CARRIED: Moved by Warshawsky, seconded by Kerr and passed by the following roll call vote to direct the Parks and Recreation Committee to lease the Bullis-Purissima School fields with minimal investment at this time, namely for rehabilitation and annual maintenance, at an initial rehabilitation cost of \$4,000 per field, monthly maintenance cost of \$500 per field, and monthly irrigation cost of \$190-\$250, thereafter. Mayor Cheng and staff will be the negotiating representatives for the City Council.

AYES: Mayor Cheng, Mayor Pro Tem O'Malley, Councilmember Fenwick,
Councilmember Kerr and Councilmember Warshawsky
NOES: None
ABSENT: None
ABSTAIN: None

6. NEW BUSINESS

6.1 Consideration of Town Hall Construction Management Agreement

Mayor Pro Tem O'Malley presented a brief overview on the decision to proceed with a construction manager for the new Town Hall project. Following discussions by Council and the New Town Hall Committee, it was determined that this approach versus the general contractor approach will allow the Town to control the operation while the firm will act on behalf of the Town in keeping costs in check. The New Town Hall Committee has interviewed, reviewed references and received bids from two construction management firms. The Committee is recommending the firm of TBI and recommends that the City Manager and City Attorney negotiate an agreement for a not-to-exceed amount as identified in the original budget proposal of \$475,000. Council concurred. O'Malley added that it is expected that this fee will be reduced. Expectations are for the construction bid packages to go out in March, so time is of the essence for hiring the construction management firm.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by Warshawsky and passed by the following roll call vote to appoint Mayor Pro Tem O'Malley as Council representative to participate in the negotiations with the City Manager and City Attorney to negotiate an agreement with the construction management firm of Toeniskoetter & Breeding, Inc. (TBI) for a not-to-exceed contract amount of \$475,000.

AYES: Mayor Cheng, Mayor Pro Tem O'Malley, Councilmember Fenwick,
Councilmember Kerr and Councilmember Warshawsky
NOES: None
ABSENT: None
ABSTAIN: None

6.2 Proposed Draft Ordinance Amending Title 5 of the Municipal Code by Amending Chapter 5 Entitled "Soliciting and Peddling"

City Attorney Mattas explained that the item before Council is an amendment to the Town's Solicitor Peddlers Ordinance. He suggested one modification to the draft ordinance Section 5-5.04 language regarding the denial of permits. It would read; "The City Manager shall deny

a permit if the applicant has been convicted of a felony or other offense involving fraud, misrepresentation, theft, battery, or assault of if the applicant or his/her employer is not authorized to conduct business in the State of California”.

MOTION SECONDED AND CARRIED: Moved by Kerr, seconded by O’Malley and passed unanimously to introduce and waive further reading of the proposed Ordinance as amended that would amend Title 5 “Public Welfare, Morals and Conduct” by Amending Chapter 5 entitled “Soliciting and Peddling”.

7. REPORTS FROM COMMITTEES, SUB-COMMITTEES, AND COUNCILMEMBERS ON OUTSIDE AGENCIES

Mayor Pro Tem O’Malley reported that he had been elected Chair of the Lower Peninsula Flood Control District Advisory Group. He announced there will be a meeting of the Adobe Creek Watershed Collaborative Group Reach 5 next week and at this stage, it appears that the Water District is supportive of the project.

Councilmember Kerr reported he had been attending VTA meetings and is a member of several Subcommittees. The main issue facing the VTA is how to be fiscally responsible and proceed with their projects. North Peninsula cities have formed a “political action” group to push agendas that are important to the coalition. The cities include: Los Altos Hills, Los Altos, Palo Alto, Mountain View and Sunnyvale. At a minimum, they would like to see the trains maintained in good condition and running on a full schedule and more bicycle path monies directed to the North Peninsula cities.

Mayor Cheng reported that she had attended the San Antonio Hills Annual Meeting at the invitation of Supervisor Liz Kniss. The main concerns voiced by the residents of the unincorporated area were annexation and sewer connections.

Councilmember Fenwick reported that the Community Relations Committee was moving forward with plans for the June 6th Town Picnic. The Committee will be reporting to Council at their March 4, 2004 meeting. The Committee voted to work with the Public Education Committee on a “phone bank” to alert the residents to the survey that will be included with the Town Newsletter mailing. Fenwick requested input from Council on “The Town of Los Altos Hills Handbook” that was produced in 1993. Mayor Cheng was familiar with the book, but the remaining Councilmembers were not. Council concurred with Fenwick that the information in the handbook is very outdated and best not to distribute to residents. Council agreed unanimously not to move forward with an update supplement to the Handbook. Fenwick reported that Wei Wei Liu, an applicant for the position of Youth Commissioner, was in attendance. She is an engaging student at Los Altos High School, a Los Altos Hills resident and a very active community volunteer.

8. STAFF REPORTS

8.1 City Manager

City Manager Cassingham noted that Council had received in their mail a copy of the preliminary Public Needs Assessment report from TMC, the Town’s consultants for the cable refranchising process. Two community meetings have been set to gather public

input and comment, February 26 and March 8, 2004 in Council Chambers. Information has been provided by the consultant for distribution to interested residents. The comment parameters are quite limited. Cassingham noted that Councilmember Fenwick is the Council liaison to the refranchise negotiations. The Town is required to negotiate with the existing provider.

Cassingham, as background for the March 2 election, provided Council with an historical overview of the State's "take aways" and their effect on the Town's finances. From 1992 to June 30 of this year, the Town has lost approximately \$2.5 million dollars in property taxes that were shifted to meet the State's obligations to education under Proposition 98. ERAF II will be another shift of property taxes, with a projected impact to the Town of approximately \$80,000 per year. The Town has not been reimbursed for state-mandated requirements specifically; the "Open Meetings Act" with a cost of \$12,000 per year and the VLF "gap" suspension, that is proposed to be repaid in 2006, is approximately \$150,000.

8.2 City Attorney

8.3 City Clerk

8.3.1 Report on Council Correspondence

City Manager Cassingham reported that a staff report will be forwarded to Council in response to the Allan Epstein correspondence in March.

9. COUNCIL-INITIATED ITEMS

10. PRESENTATIONS FROM THE FLOOR

Lawrence Hall, 15394 Reed Avenue, Truckee California, representative for the Mora Heights Sewer project addressed Council. He explained that he had come before Council at their February 5, 2004 requesting that his item be agendized for the February 19, 2004 meeting. He was before Council this evening and ready to proceed.

City Attorney Mattas explained that Council had agreed to agendize the matter upon submission of the necessary documents and reports for staff to review. At this time, there had been no submittals. He explained that Council can direct the item be placed on a future agenda, but it would be helpful for staff to receive all materials in advance to allow the preparation of a staff report for the benefit of Council.

City Manager Cassingham referred to the minutes of the last meeting to refresh Mr. Hall's memory that Council had directed Hall to submit his reports to staff for their review before his request would be placed on tonight's agenda.

Hall agreed to submit materials no later than February 24, 2004 for his request to be included in the March 3, 2004 agenda.

Cyrous Gheryi, Elena Road, addressed Council. He requested that his issues with the Town be placed on a future agenda. He noted that he had submitted a letter to Council outlining his concerns.

Mayor Cheng explained that Council would be reviewing his letter during the Closed Session at tonight's meeting.

Gheryi requested that during his remaining allotted three minutes for a presentation, he be permitted to express his dissatisfaction with the tone that was used by the City Attorney in addressing him. Gheryi added that he is the son of a General and this treatment is unacceptable.

11. PUBLIC HEARINGS

11.1 Request to Subdivide a 2.32 Acre Parcel into Two Lots and a Proposed Mitigated Negative Declaration; Lands of Kearns, 11261 Magdalena (171-03-TM-ND-GD)

Associate Planner Debbie Pedro introduced this item to Council. She presented a brief power point presentation that included the site plan, proposed two lots, subdivision improvements and drainage plans. Pedro reported that the Town has received a letter of concern from a neighbor regarding potential silt from future development. Pedro explained that the project engineer has submitted storm water analysis and calculations that show that the proposed drainage improvements will mitigate the impact of silt and run-off from future site development on the newly created lot.

Pedro noted that on January 22, 2004, the Planning Commission reviewed the project and voted unanimously to recommend that the City Council approve the proposed subdivision with conditions that include the following: 1) undergrounding of all utilities; 2) connection of both properties to the sewer system; 3) dedication of a 30-foot wide half-street right-of-way; and, 4) the construction of a Type IIB pathway along the Magdalena frontage.

OPENED PUBLIC HEARING

Bo Kearns, applicant, addressed Council. He explained that he is planning on building his personal residence on the newly created lot. Kearns has worked with Giuliani and Kull engineers and the Town's engineering department to design the drainage retention chamber which will address his neighbors drainage concerns.

Mark Helton, project civil engineer, Guilani and Kull, introduced himself to Council and advised that he was available to answer Council questions.

CLOSED PUBLIC HEARING

Planning Director Cahill confirmed for Council that all calculations submitted by the applicant's civil engineer pertaining to the lot unit factor (LUF) had been reviewed and corroborated by staff. The applicants will be required to connect to the public sewer system as a condition of approval.

MOTION SECONDED AND CARRIED: Moved by O'Malley, seconded by Warshawsky and passed by the following roll call vote that Council approve the proposed Tentative Map for a two lot subdivision subject to the conditions of approval, Land of Kearns and adopt the Mitigated Negative Declaration and Mitigation Monitoring Program.

AYES: Mayor Cheng, Mayor Pro Tem O'Malley, Councilmember Fenwick,
Councilmember Kerr and Councilmember Warshawsky
NOES: None
ABSENT: None
ABSTAIN: None

11.2 Appeal of a Planning Commission's Approval of a Site Development Permit
for a Landscape Screening Plan; Lands of Kerns, 11888 Francemont Drive
(225-03-ZP-SD)

Planning Director Cahill presented a power point presentation for Council. It included: a rendering of the house as it exists today; reference from the Los Altos Hills Municipal Code regarding landscaping of structures on ridgelines; condition of approval for the new residence that applies to landscape screening; an aerial photo that depicted the location of proposed trees; photos of glare emitted from the residence that are visible from neighbors properties; and examples of the applicants proposed retaining walls that would be faced with either Fieldstone or Shotcrete. Cahill explained that the applicant had not used either surface on their retaining walls and at this time they remain unfinished.

Cahill reviewed for Council the Conditions of Approval that were approved by the Planning Commission at their January 22, 2004 meeting and the approved screening plan. The project was appealed on February 2, 2004 and the applicant is requesting modification to the tree installation location citing geotechnical and fire safety concerns. Cahill reviewed these issues with Council. He explained that the Town's geologist, Ted Sayre, Cotton, Shires & Associates, had reviewed the landscape screening plan, visited the site and reviewed the applicant's geologist report and found no problem with the tree installation locations approved by the Planning Commission. Cahill referred to letters from Bruce Hagen, California Department of Forestry and Santa Clara County Deputy Fire Marshall Mark Nadvornik that state that the landscape plan meets the requirements for defensible space and complies with the California Fire Code. Cahill added that the applicants were also requesting a delay in the landscape installation schedule. The new residence condition of approval had required the applicant to have the landscape screening installed prior to final inspection. At the February Planning Commission public Hearing, the applicant's requested this be modified to April 1, 2004 and now, included in the appeal, the applicant's are requesting an eight month deferral of landscape installation until November 1, 2004.

Cahill reviewed the proposed exterior lighting plan with Council. He noted that this has not been approved and the applicant has been directed to work with the neighbors to ensure that the proposed lighting is not obtrusive. The light fixtures must be low wattage, down shielded and not visible from offsite. Cahill exhibited slides of the residence and proposed fixtures and locations of the exterior lights.

Cahill concluded his presentation by stating that staff was recommending that the City Council either uphold the Planning Commission approval of the landscape screening plan or approve the alternate plan submitted by the applicant on February 17, 2004 with the addition of one (1) 24" rootball live oak and per Condition #6 of the New Residence permit, require the landscape screening plan be installed prior to final inspection. Cahill explained that this is not an unusual condition of approval, and referenced several similar high profile projects where installation of large trees have been required prior to final inspection including; the Wadwanhi residence, Lands of Mozart and Lands of Dubey.

Cahill added that staff also was recommending that Council uphold the Planning Commission's requirement that exterior lighting be low wattage, down-shielded and not visible from offsite and that no final inspection or grant of occupancy be given until the exterior lighting plan is approved and the lights are installed. Cahill noted that none of the requirements are onerous and can be complied with before occupancy.

Councilmember Fenwick requested clarification on the recently submitted (February 17, 2004) landscape screening plan. He questioned if staff had a preference or any problems with the new plan. Cahill responded that they are similar in nature and the neighbors of the project have approved the recent submittal with the addition of one tree.

OPENED PUBLIC HEARING

Bill Kerns, applicant, addressed Council. He noted that his project consultants were in attendance to answer any questions Council might have on the application. Kerns explained that his attorney had forwarded correspondence to the Council to ensure that the Town abides by the Municipal Code on their project. The Municipal Code is very clear the requirement is minimal landscaping.. The applicant does not believe that the requirement should be to make his home invisible initially and the screening plan should be reviewed for it's effect at maturity.

Kerns stated that they are willing to comply with the alternate screening plan that was submitted by them on February 17th with the addition of one tree. He is proposing to stain the retaining walls in addition to the planting of screening vegetation. If the plan is accepted and approved, he would like a condition added that states the installation location of a tree can be modified at the staff level based upon the Town's geologists recommendations. The applicants, however, would like the lighting plan to be approved tonight by Council without documentation of the approval of the surrounding neighbors within 500 feet.

Kerns reviewed several slides with Council including his revised landscaping plan and lighting exhibits. He explained that he is experimenting with his outdoor lights and will do his best to accommodate his neighbor's requests and work to make his lights less obtrusive. He is trying to do more than the minimal requirements as defined by the Municipal Code and would like to be treated "like other applicants".

OPENED PUBLIC HEARING

Bill Maston, applicant's landscape architect, addressed Council. He explained that he has been working closely with neighbors on behalf of the Kerns. Maston believes the Kerns recent submittal of February 17, 2004 is consistent with the January 22, 2004 Planning Commission approved plans.

Winston Lambert, resident, spoke in favor of the Kern's landscaping plan. He has lost a home to fire and expressed his concern for the required planting close to the Kern's residence.

Bernardo Ferrari, Altamont Road, expressed his concern that no planting plan has been required to screen the residence on the North side. He would like a mitigation plan developed to address the concerns of residents that view the property from this perspective.

Mark Ferrari, concurred with the opinion of Bernardo Ferrari. He explained that he expected the Town to address this residence that was constructed on a highly visible ridgeline with "special care". Ferrari noted that vegetation had been removed since the story poles were sited on the property for the neighbors to review. He requested that the north side be addressed. Ferrari added that he would like the proposed lighting to be less obtrusive, as of this date he has not seen an acceptable lighting plan.

Roger Spreen, Rhus Ridge Road, noted his concern with the newly submitted landscape plan (February 17, 2004). He has not had an opportunity to review the submittal. Spreen feels it is very important that the lighting plan be reviewed carefully, adding that homes built on a ridgeline should be treated differently in contrast to Kern's statement that they want to be treated like everyone else. He would like to see a substantial deposit on the project to ensure the landscape screening requirements are met.

Sandy Humphries, Environmental Design and Protection Committee, distributed a list of fire safe trees from the Fire Department. She supports more mitigation planting around the residence.

Sharon Nieh, Basset Lane, played a section of the audio tape from the July 12, 2000 Planning Commission Meeting that pertained to the Kern's Site Development approval for the new residence. Narration had been added to the tape. Peter Nieh played a video tape that showed the illumination at night from the Kern's residence.

Mary Jane Ferrari, Altamont Road, resident in Los Altos Hills since 1927, explained that she was confident when the landscape architect had said the home would be screened by landscaping. Ferrari is now concerned that this statement will not be satisfied.

Ray Morneau, applicant's Arborist, explained that it is his opinion that the alternate plan addresses everyone's concerns. Morneau believes that it is vital not to disturb the existing trees/plants with excavation for the new vegetation. He added that it is important for the Council to consider the threat of potential fire on the Town's hillsides.

Karen Powers, Old Snakey, noted that she had not been notified of any public hearings regarding this project. She distributed pictures to Council of the residence from off site. Powers would like to see the exterior lighting low for foot traffic only.

Resident, Elena Road, recommended that Council consider requiring outdoor lighting similar to the lighting at the Enchantment Resort at Sedona.

Peter Nieh, Basset Lane, explained that he had only pursued a landscaping plan for the project that satisfies his concerns. Nieh showed slides of grading that had been done on the property, examples of the immature oak trees that are being required, exterior lights that have been installed by the applicant and text of the legal definition of the term “good faith”. He would like the Council to increase the performance guarantee deposit to ensure that the applicant fulfills all the conditions of approval.

Russel Hirsch, Francemont Drive, addressed Council. He distributed photos to Council of the applicant’s retaining walls that are visible from his home. He implored the Council to “make the walls go away” by upholding the Planning Commission’s minimal requirement that the walls be screened by 75% planting. He would like to see the walls faced as proposed by the applicant in their initial application.

Joe Crosby, applicant’s Geologist, stated that he is concerned about excavation close to the foundation for plantings. He explained that ridge tops have “focusing of seismic energy” during an earthquake. He proposes that the trees be planted down the slope. This would be a safer location for the foundation.

Gary Richmond, Landscape Architect for Peter Nieh, displayed a schematic of the applicant’s original proposed plan. He has worked with the applicant to revise the plan to ensure that the property will be appropriately screened.

John McClenahan, local Arborist, explained that after reviewing the plans, he is comfortable with both the Planning Commission approved plan and the alternate screening plan. He added that the alternate plan would be easier to plant in the revised location.

Sandy Humphries, Environmental Design and Protection, questioned Council’s authority to approve the revised plan without a Planning Commission review.

City Attorney Steve Mattas, clarified that Council had before them an appeal of the Planning Commission’s decision, if Council upholds the Planning Commission’s action, there is no need to send it back. If the Council wishes to refer the alternative plan to the Planning Commission for review, they have that authority. However, before Council are minor adjustments to the approved plan and the law requires only substantive/ substantial changes to a plan before the Council is required to refer the plan back to the Planning Commission. The Council has some discretion to look at the modifications or to refer the plan to the Planning Commission.

Dr. Theodore Shiff, Old Snakey Road, noted that the residents who view the north side of the property are very impacted by the glare of the exterior lights. He requested Council

consider sending the application back to the Planning Commission for review and appropriate landscape screening for this side of the development.

Bill Kerns, applicant, expressed his sympathy for the neighbors. He appreciated the opportunity to respond to the residents' comments. He worked with his consultants to address their concerns. Kerns explained that he positioned his home by existing trees and has attempted to position his lights to be less visible off site. He has investigated a variety of fixtures and added that there are other visible homes in the Town. He asked the Council to treat his application with fairness and to approve the alternate plan with the addition that the location of planting could be modified with a recommendation from the Town Geologist. Kerns requested that Council also approve his lighting plan tonight and he offered to use motion sensors for his exterior lights. He would like it approved without the condition that he provide documentation that everyone within 500' accepts the lighting plan. Kerns added that he will make every attempt to have the landscape planting completed by April 1 but he would like permission to move into his home.

Betty Kerns, applicant, offered to plant three (3) 24" oaks on the north side of their property in addition to the plantings identified in the alternate landscape plan (submitted February 17, 2004).

CLOSED PUBLIC HEARING

COUNCIL RECESSED 8:45 p.m.

COUNCIL RECONVENED 8:50 p.m.

Councilmember Fenwick summarized the major issues before Council for their consideration this evening: 1) the project landscaping plan, 2) the lighting plan, and 3) the date. Fenwick commented that his own residence is on a ridgeline and consequently, he is very familiar with the concerns and issues of residents. He concurs with the majority of the Planning Commission's conditions of approval and does not want to see the project start the review process cycle over again. Regarding the landscaping plan, Fenwick noted that he could support the alternative plan submitted February 17, 2004 with the addition of three oak trees to be planted on the north side as offered by the applicant. Fenwick explained that when he could not find exterior lights for his residence that maintained the tranquility of the property, he had exterior fixtures designed. He has numerous exterior lights and they are not visible from off site. He does not believe the Kern's lighting fixtures as shown in their exhibits are in the spirit of the Town's regulations. He supports the Planning Commission's condition of approval for the applicant's lighting plan. Fenwick concluded that he supports the April 1, 2004 Planning Commission date for the completion of the landscaping and lighting conditions of approval.

Mayor Pro Tem O'Malley commented that choosing to build a home on a highly visible site mandates certain responsibilities to the community. The Planning Commission unanimously approved the Site Development Permit for the landscaping plan for this project and he supports their decision and feels it is important to uphold their conditions of approval. O'Malley would like the applicant to mitigate the exterior lighting as much as possible, the residence is the only home on the hillside and if the home is "well lighted" it will disturb a great number of people.

Councilmember Warshawsky noted that landscape plans are not normally reviewed by the City Council. This is the first such project to be considered at this level during his tenure. Warshawsky added that rarely does the Council disagree with the decisions of the Planning Commission. In preparing for this item, he has reviewed the staff reports, plans and talked with residents. Warshawsky added that staff and the Planning Commission have done their due diligence and he will vote to uphold the Planning Commission's decision. The only modification he would like to add to the approved plan is the offer of the applicant to help mitigate the north side view by planting three (3) trees.

Councilmember Kerr commented that this is a unique house with special responsibilities. It is surrounded by the Mid-Peninsula Open Space and special consideration should be given to ensure that the home and exterior lighting are screened and mitigated. He would like the applicant to work with staff to reach an agreement on the lighting plan and have it come back to Council on the Consent Calendar. Kerr added that the view from the north side should be addressed before the Site Development application is approved. He suggested that the retaining wall surface could be painted similar to the retaining wall by Byrne Preserve. Kerr added that if the applicant wishes to move in, the Town should require a larger deposit and landscape performance deposit.

Mayor Cheng commented that she believes it would be appropriate to send the landscape modifications back to the Planning Commission for review. If Council should chose this action, because it would delay the applicant's project, she would recommend an increased deposit and to allow the applicant's to move into their home.

MOTION MADE: Moved by Fenwick and failed due to the lack of a second; to accept the January 22, 2004 Planning Commissions approval of the Site Development Permit with the following exceptions: to use the February 17, 2004 alternate landscaping plan with one extra 24" rootball oak; to require the planting of three (3) 24" box trees to be placed on the north side in a location acceptable to the Planning Director; to increase the performance deposit to \$45,000 and the maintenance deposit to \$25,000 (retained for two years); and to require the retaining walls be painted earth tones subject to the approval of the Planning Director.

Council discussion ensued. Planning Director Cahill explained that it would be appropriate to require the applicant to submit a landscaping plan for the north side to the Planning Commission to allow the proper analysis of the submittal to adequately screen the house.

MOTION MADE AND CARRIED: Moved by Fenwick, seconded by Kerr and passed by the following roll call vote to: approve the landscape screening plan submitted and dated February 17, 2004 with the addition of one (1) 24" rootball oak tree with the location subject to approval of the Planning Director and Town Geologist; the City Council requires that a screening plan for the north side of the residence be developed and submitted by the applicant to be considered separately by the Planning Commission; (All referenced Planning Commission Conditions are dated January 22, 2004) Planning Commission Condition 1b shall be modified to state the applicant shall paint/stain all retaining walls with a color similar to the Lands of Mont Williamson; Planning Commission Condition 1c remains the same except that the plantings shown on the February 17, 2004 alternative plan shall be installed by the applicant prior to occupancy

and final inspection, and Planning Commission Conditions 2, 3, 5, 6, 7 and engineering conditions remain the same; Planning Commission Condition 4 be modified to require a \$25,000 landscape maintenance deposit

AYES: Mayor Cheng, Councilmember Fenwick, Councilmember Kerr and Councilmember Warshawsky
NOES: Mayor Pro Tem O'Malley
ABSENT: None
ABSTAIN: None

Bill and Betty Kerns, applicant, agreed on the record to the conditions of the motion.

Council directed staff to make the administrative decision when the applicant's pre-final building inspection could be made.

Council adjourned to Closed Session at 10:30 p.m.

12. CLOSED SESSION

CLOSED SESSION: Pursuant to Government Code Section 54956.8: Conference with Real Property Negotiator -
Property: – APN 175-56-3

Agency Negotiators: Maureen Cassingham and Steve Mattas
Negotiating Parties: Town of Los Altos Hills and Purissima Hills Water District
Under Negotiation: Terms and Conditions related to Lease of Property

CLOSED SESSION: CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION: Government Code Section 54956.9(a): Campbell and Ligeti v. Town of Los Altos Hills

CLOSED SESSION: Conference with legal counsel-anticipated litigation: Significant exposure to litigation pursuant to subdivision [b] of Section 54956.9: one case.

The City Council reconvened to the Regular City Council meeting at 11:01 p.m,
No action was taken.

13. ADJOURNMENT

MOTION SECONDED AND CARRIED: moved by O'Malley, seconded by Warshawsky and passed unanimously to adjourn the Regular City Council Meeting at 11:02 p.m.

The minutes of the February 19, 2004 City Council Regular Meeting were approved at the March 3, 2004 City Council Regular Meeting.

Respectfully submitted

Karen Jost,
City Clerk